

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TRISHKA LAMPKIN AND ROBERT
CORTEZ,

Plaintiffs,

v.

COUNTY OF SACRAMENTO, M. SPANGER
in his official capacity, and
MATTHEW CORTEZ,

Defendants.

No. 2:20-cv-01204-JAM-JDP

**ORDER DENYING PLAINTIFFS'
MOTION TO VACATE**

This matter is before the Court on Plaintiffs' motion to vacate the Court's orders granting Defendant's motion for summary judgment and motion for sanctions. See Mot. to Vacate ("Mot."), ECF No. 28; Order Granting MSJ, ECF No. 25; Order Granting Sanctions, ECF No. 26. For the reasons set forth below, the Court DENIES Plaintiffs' motion to vacate.¹

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¹ This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled for November 1, 2022.

I. FACTUAL AND PROCEDURAL BACKGROUND

As the facts are already known to the parties, the Court repeats them only as necessary to explain its decision. Plaintiffs sued Defendant County of Sacramento for constitutional violations under 42 U.S.C. § 1983 based on the actions of co-Defendant, Martha Spagner.² See Compl., ECF No. 1. Spagner is and was employed by the Superior Court for State of California, County of Sacramento. See Decl. of Alice Kruegar, ECF No. 17-5. The Superior Court and the County are separate entities. Id. As such, Spagner was not and is not an employee of the County of Sacramento.

Accordingly, the Court found as a matter of law that Defendant County of Sacramento cannot be held liable under § 1983 for the alleged actions of an unrelated non-employee. Order Granting MSJ at 4-6. The Court thus entered summary judgment for Defendant County of Sacramento on all claims. Id. at 6. The Court further found that Plaintiffs failed to conduct a reasonably competent inquiry before filing their complaint and that they recklessly maintained a factually baseless suit despite repeated notice from opposing counsel. Order Granting Sanctions at 4. The Court thus imposed sanctions in the form of attorney's fees upon Plaintiffs' counsel. Id. at 7.

Plaintiffs move now to vacate the Courts' orders under Fed. R. Civ. P. 60(b)(1), arguing the Court's orders were based on "mistake, inadvertence, surprise, or excusable neglect." Mot. at 3. The Court disagrees.

² Erroneously named as "Martha Spagner" in the Complaint.

II. OPINION

A. Legal Standard for Summary Judgment

Rule 60(b)(1) allows a court to vacate a final judgment that is based on "mistake, inadvertence, surprise, or excusable neglect." Rule 60(b)(1). The United States Supreme Court established a four-factor test to assess whether missing a filing deadline constitutes excusable neglect. See Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd., 507 U.S. 380. The Pioneer test is "an equitable one, taking account of all relevant circumstances surrounding the party's omission. These include . . . [1] the danger of prejudice to the debtor, [2] the length of the delay and its potential impact on judicial proceedings, [3] the reason for the delay, including whether it was within the reasonable control of the movant, and [4] whether the movant acted in good faith." Id. at 395 (internal citation omitted). The Supreme Court emphasized, however, that "inadvertence, ignorance of the rules, or mistakes construing the rules do not usually constitute 'excusable' neglect." Id. at 392. In the Ninth Circuit, the Pioneer standard applies to Rule 60(b)(1) motions. See Briones v. Riviera Hotel & Casino, 116 F.3d 379, 381 (9th Cir. 1997).

B. Discussion

Plaintiffs assert that "[t]he basis for granting the Motions [at issue] is because the Court has chosen to disregard Plaintiff's untimely Responses." Mot. at 2. To the extent Plaintiffs suggest the Court was mistaken to have treated Plaintiffs' untimely opposition briefs as non-oppositions, that argument is groundless. The Court is explicitly permitted under
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1 its Local Rules to treat untimely opposition filings as non-
2 oppositions. E.D. Cal. L.R. 230(c).

3 To the extent Plaintiffs argue that the Court should vacate
4 its previous orders because Plaintiffs' untimeliness was
5 excusable neglect under Pioneer, Plaintiffs miss the mark of
6 Rule 60. Mot. at 4 (discussing whether untimeliness is excusable
7 neglect). While it is true that Plaintiffs were untimely and
8 that untimeliness may sometimes constitute excusable neglect,
9 Plaintiffs' particular brand of untimeliness had the unique
10 character of bearing no weight on the outcome of the Court's
11 orders. The Court decided the motions on their merits and the
12 record before it. Order Granting MSJ at 3 ("In the absence of an
13 opposition, the Court nevertheless decides a motion for summary
14 judgment on its merits"); Order Granting Sanctions at 1 ("The
15 Court has decided this motion for sanctions on its merits despite
16 the absence of an opposition"). Because Plaintiffs' untimeliness
17 was not the basis for the Court's orders, Plaintiffs'
18 untimeliness cannot support a motion to vacate the Court's orders
19 under Rule 60(b)(1), which only permits a court to relieve a
20 party from a final order for "reasons" of "excusable neglect."
21 Rule 60(b)(1).

22 Even if Plaintiffs' untimeliness was the basis for the
23 Court's orders such that Rule 60(b)(1) applied, it would not be
24 excusable neglect under Pioneer. First, Defendant was prejudiced
25 by Plaintiffs' delay in filing their oppositions. Plaintiffs
26 missed the Court's deadline to file an opposition to Defendant's
27 motion for summary judgment by 46 days and the deadline to file
28 an opposition to Defendant's motion for sanctions by 59 days.

1 E.D. Cal. L.R. 230(c) ("Opposition, if any, to the granting of
2 the motion shall be in writing and shall be filed and served no
3 later than fourteen (14) days after the motion was filed") (eff.
4 March 1, 2022). Even under the Court's prior rule, Plaintiffs'
5 oppositions would have been late for having been filed less than
6 fourteen days preceding the date of the motion's hearing.
7 Plaintiffs' delay deprived Defendant of its fairly allotted time
8 to file a reply: The Local Rules provides "ten (10) days" for a
9 reply to be filed "after the opposition was filed," but Defendant
10 would have only had eight. E.D. Cal. L.R. 230(d). This
11 prejudice may be small under different circumstances, but it is
12 noteworthy here, where the case was factually baseless to begin
13 with.

14 Regarding the second factor, the length of the delay was
15 significant, but its potential impact on the proceedings was
16 admittedly minimal. The motions were ultimately taken under
17 submission and a hearing did not need to be rescheduled.
18 However, as discussed above, because the present case is
19 factually baseless, the inclusion of Plaintiffs' opposition
20 briefings would also have had minimal impact on the Court's
21 proceedings. As such, this factor does not militate strongly in
22 Plaintiffs' favor.

23 Conversely, regarding the third factor, the Court finds
24 Plaintiffs' reason for delay cuts strongly against a finding of
25 excusable neglect. Plaintiffs were afforded an opportunity to
26 show good cause for their untimeliness. See Pls.' Resp. to the
27 Court's Order to Show Cause ("Resp."), ECF No. 21. In response
28 to the Court's inquiry for good cause, Plaintiffs' counsel stated

1 that her office "relied on its own memory of the Local Rules" and
2 thus "mistakenly believed the due date for the Responses to be
3 ten days before the hearing." Resp. at 3 (emphasis added).
4 Plaintiffs' untimeliness was not, as Plaintiffs contend, "the
5 result of a misunderstanding of the local rules" so much as an
6 ignorance of them. Id. Plaintiffs' counsel's error was clearly
7 "within the reasonable control of the movant," because the
8 Court's rules are publicly available, and a quick internet search
9 would have sufficed. Pioneer, 507 U.S. at 395. As such,
10 Plaintiffs' counsel had no reason to remain unaware of the
11 Court's deadline except for her lack of trying.

12 Regarding the fourth and final factor, the Court finds
13 Plaintiffs' counsel did not act in bad faith. There is nothing
14 in the record to suggest that Plaintiffs' counsel's behavior was
15 tactical or calculated to effect some advantage in litigation.
16 By the same measure, however, the Court cannot say Plaintiffs'
17 counsel acted in good faith, as her ignorance of the Court's
18 rules explanation borders on the willful. On the whole,
19 balancing the Pioneer factors, Plaintiffs' counsel's behavior
20 does not constitute excusable neglect.

21 The Court's analysis is consistent with precedent in this
22 Circuit. As the Ninth Circuit held, in the absence of "a
23 persuasive justification for [counsel's] misconstruction of
24 nonambiguous rules . . . there is no basis from deviating from
25 the general rule that a mistake of law does not constitute
26 excusable neglect." Kyle v. Campbell Soup Co., 28 F.3d 928, 931-
27 32 (9th Cir. 1994). This general rule keeps faith with the
28 Supreme Court's emphasis in Pioneer that "inadvertence, ignorance

1 of the rules, or mistakes construing the rules do not usually
2 constitute 'excusable' neglect." Pioneer, 507 U.S. at 392
3 (emphasis added). A litigants' egregious failure to research,
4 read, and follow clear and unambiguous rules is only excusable
5 neglect when countervailing circumstances allow for it in equity.
6 See Briones v. Riviera Hotel & Casino, 116 F.3d 379 (9th Cir.
7 1996) (vacating and remanding a district court's denial of a
8 Rule 60(b)(1) motion where the litigant was pro se and had
9 difficulty with English); Bateman v. United States Postal Serv.,
10 231 F.3d 1220 (9th Cir. 2000) (finding excusable neglect where a
11 lawyer was out of the country and jetlagged upon return); Lemoge
12 v. United States, 587 F.3d 1188 (9th Cir. 2009) (finding
13 excusable neglect where a lawyer delayed due to injury requiring
14 multiple surgeries and extensive surgery). It is plainly the
15 exception and not the rule that a lawyer's neglectful behavior is
16 excusable under the auspices of Pioneer.

17 It would be a particularly perverse incentive to grant
18 Plaintiffs' motion to vacate in this instance, because it would
19 open the door to all tardy filers to challenge final orders even
20 when their tardiness had no material impact on the outcome of
21 their case. For this reason and for the reasons above, the Court
22 finds that Rule 60(b)(1) does not apply and that, if it did,
23 Plaintiffs' untimeliness would not constitute excusable neglect
24 under the Pioneer test. Accordingly, the Court denies
25 Plaintiffs' motion to vacate its prior orders.

26 III. SANCTIONS

27 Defendant requested additional sanctions in the amount of
28 \$4,500 in attorney's fees for work done preparing its opposition

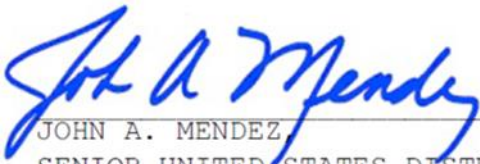
1 to Plaintiff's motion to vacate. Opp'n at 9. The Court declines
2 to impose these additional sanctions. While Plaintiffs' counsel's
3 stubborn refusal to accept the Court's prior orders in this case
4 is of concern, this motion to vacate does not appear to have been
5 brought in bad faith such that additional sanctions are
6 warranted.

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8 IV. ORDER

9 For the reasons set forth above, the Court DENIES
10 Plaintiffs' Motion to Vacate.

11 IT IS SO ORDERED.

12 Dated: November 28, 2022

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15 JOHN A. MENDEZ
16 SENIOR UNITED STATES DISTRICT JUDGE
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